

PATENT

Serial No. 10/554,177 (BR210-66910/2)
Response to Office Action mailed May 13, 2009

Amendment to the Drawings

The attached sheet of drawing includes a change to FIG. 13. This sheet replaces the original sheet including FIG. 13. In FIG. 13, reference numeral 63b has been changed to 63e.

Attachments: Replacement Sheet
Annotated Sheet Showing Change

Remarks

Applicants respectfully request reconsideration of the present application in view of the above-amendments and following remarks. The specification, drawings, and claims 1-3, 5, 10 and 12-16 have been amended. Claims 22-31 have been cancelled and claims 32-34 have been added. Therefore, claims 1-21 and 32-34 are pending in the present application.

Independent claim 1 has been amended to state that the sidewall of the second cabinet extends downwardly from a lower surface of the base, wherein the base of the second cabinet is in contact with the top surface of the first cabinet. See *Specification*, ¶¶ [0046]-[0048]; FIGS. 1 and 2A.

Claim 2 has been amended to state that the sidewall includes a top edge that is adjacent to the lower surface of the base. See *id.* at ¶ [0047]; FIG. 2A.

Claim 3 has been amended to change "a lower surface" to "the lower surface" since the lower surface is introduced in amended claim 1.

Claim 5 has been amended to state that at least one of the first and second cabinets further includes a drawer assembly, which was originally recited in claim 12, and to state that the interior casing is positioned within the upper shell portion and the rear shell portion. See *id.* at ¶ [0050]; FIG. 2.

Claim 10 has been amended to state that the interior casing is formed of a non-flammable thermal insulating material. See *id.* at ¶ [0055].

Claim 12 has been amended to delete the reference to the drawer assembly since this limitation was incorporated into claim 5.

Claim 13 has been amended to further define the slide members as the opposing slide members referred to in claim 12.

Claim 14 has been amended to state that the inner groove is defined in the outer groove. *See id.* at ¶ [0059]; FIGS. 10-11.

Claim 15 has been amended to further define the slide members as the opposing slide members referred to in claim 12.

Claim 16 has been rewritten in independent form to include the limitations from original claims 1, 5, 12 and 15.

Paragraph [0061] of the specification and FIG. 13 of the drawings have been amended to change the reference numeral associated with the flange from 63b to 63e. This change has been made because reference numeral 63b is already being used in association with the clip shown in FIG. 14.

Paragraphs [0062] and [0063] of the specification have been amended to change the reference numerals associated with the upper and lower extrusions to 71 and 69, respectively, so that the specification is consistent with FIG. 15.

The drawings have been objected to under 37 C.F.R. § 1.83(a). In particular, the Examiner has taken the position that the extrusion set forth in claim 17 must be shown in the drawings. *See Office Action*, pg. 2. Applicants submit that the extrusions are set forth in the drawings, specifically in FIG. 15. Upper and lower extrusions are labeled with reference numerals 71 and 69, respectively. Since the extrusion referred to in claim 17 is shown in the drawings, Applicants request that the objection to the drawings be withdrawn.

Claims 13 and 14 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. *See Office Action*, pg. 3. In particular, the Examiner stated that the phrase in claim 13 – "wherein slide members are disposed" – is unclear and confusing since it is not clear whether the recitation is a reference back to the previously defined "a pair of opposing slide members" as set forth in claim 12, or if the recitation is a new and distinct limitation. *See id.* Claim 13 has been amended to state that the slide members refer to the opposing slide members set forth in claim 12. It is requested that the rejection of claims 13 and 14 be withdrawn.

Claims 1-8, 10 and 11-13 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,193,340 to Schenker et al. ("the Schenker reference").

In order to establish a *prima facie* case of anticipation, each element included in a claim must be disclosed in a single prior art reference. *See W.L. Gore & Assoc. v. Garlock*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). Therefore, if one of the elements included in the claims is not disclosed in the Schenker reference, then the anticipation rejection should be withdrawn.

Amended independent claim 1 is directed to a multi-drawer file cabinet comprising a first cabinet including a top surface having a peripheral edge. The peripheral edge of the top surface has a first perimeter, and the first cabinet has a drawer opening defined by an edge. The multi-drawer file cabinet further comprises a second cabinet including a base and a sidewall extending downwardly from a

lower surface of the base. The sidewall includes a peripheral edge having a second perimeter that is larger than the first perimeter. The sidewall of the second cabinet fits around the peripheral edge of the top surface of the first cabinet, and the base of the second cabinet is in contact with the top surface of the first cabinet.

The Schenker reference does not teach or suggest a multi-drawer file cabinet comprising a first cabinet including a top surface, and a second cabinet including a base and a sidewall that extends downwardly from a lower surface of the base, wherein the base of the second cabinet is in contact with the top surface of the first cabinet as recited in amended claim 1. In rejecting claim 1, the Examiner stated that the Schenker reference discloses a first cabinet (bottom cabinet) and a second cabinet (top cabinet), as best seen in FIG. 1 of the Schenker reference. See *Office Action*, pgs. 3-4. As best seen in FIGS. 4 and 6 of the Schenker reference, the bottom cabinet includes a top surface (130) and the top cabinet includes a base (30) and a sidewall (138) that extends downwardly from the base (30). However, the base (30) of the top cabinet is not in contact with the top surface (130) of the bottom cabinet, as set forth in amended claim 1. Instead, with reference to FIG. 6 of the Schenker reference, the base (30) of the top cabinet is spaced apart from the top wall (42) of the bottom cabinet, and is not in contact with the bottom cabinet. Thus, the Schenker reference fails to disclose all of the limitations included in amended claim 1.

In the Schenker reference, the sidewall (138) of the top cabinet that extends downwardly from base (30) supports the weight of the top cabinet on the ledge (134) formed in the bottom cabinet. It appears that the configuration in the Schenker

reference results in a less stable stacking of the second cabinet on top of the first cabinet compared to the configuration in amended claim 1. In the arrangement set forth in amended claim 1, the base of the top cabinet is in contact with the top surface of the bottom cabinet to more evenly distribute the weight of the top cabinet across the top wall of the bottom cabinet thereby providing a more stable arrangement. The sidewalls in the configuration in amended claim 1 are not used for supporting the weight of the top cabinet, but instead allows the top cabinet to be securely positioned on top of the bottom cabinet.

For at least the reason set forth above, Applicants submit that the Schenker reference does not teach or suggest all of the limitations included in amended claim 1. It is therefore requested that the rejection of claim 1 be withdrawn. As claims 2-8, 10 and 11-13 depend either directly or indirectly from claim 1, these claims are not taught or suggested by the Schenker reference for at least the same reason that was set forth above with respect to claim 1. It is requested that the rejection of claims 2-8, 10 and 11-13 be withdrawn.

Dependent claim 7 includes an additional limitation that is not disclosed in the Schenker reference. Claim 7 depends indirectly from claim 5 and states in part that the upper shell portion from claim 5 includes opposing side sections. First, the Examiner provided two alternate interpretations in rejecting claim 5. The second interpretation stated that the interior casing is anticipated by the drawer assembly (26) shown in FIG. 3 of the Schenker reference. Applicants submit that this interpretation is no longer possible since a drawer assembly is specifically provided

for in claim 5. Therefore, Applicants will assume that the first interpretation provided by the Examiner in rejecting claim 5 applies to the rejection of claim 7.

In rejecting claim 7, the Examiner stated that the two side sections (34) shown in FIG. 2 of the Schenker reference anticipate the opposing side sections set forth in claim 7. If this is the case, then the Examiner's statement that the interior casing (claim 5) is anticipated by the same two side sections (34) is no longer possible since the interior casing (claim 5) and the opposing side sections (claim 7) are two separate elements in claims 5 and 7. Furthermore, even if the Examiner attempts to designate the drawer assembly (26) as the interior casing, Applicants submit that this is not appropriate since the drawer assembly (26) would correspond to the drawer assembly set forth in claim 5. In sum, the Schenker reference does not teach or suggest an interior casing set forth in claim 7. It is requested that the rejection of claim 7 be withdrawn for this additional reason.

Dependent claim 10 includes an additional limitation that is not disclosed in the Schenker reference. Claim 10 has been amended to state that at least a portion of the interior casing is formed of a non-flammable thermal insulating material. Applicants submit that the Schenker reference does not include an interior casing that is formed of a non-flammable thermal insulating material. For this additional reason, Applicants request that the rejection of claim 10 be withdrawn.

Claims 1-5 and 10 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,918,781 to Paris ("the Paris reference").

The Paris reference does not teach or suggest a multi-drawer file cabinet comprising a first cabinet including a top surface, and a second cabinet including a

base and a sidewall that extends downwardly from a lower surface of the base, wherein the base of the second cabinet is in contact with the top surface of the first cabinet as recited in amended claim 1. In rejecting claim 1, the Examiner stated that the Paris reference discloses a first cabinet (1) (bottom cabinet) and a second cabinet (1) (top cabinet), as best seen in FIG. 1 of the Paris reference. *See Office Action*, pgs. 5-6. First, the bottom cabinet shown in FIG. 1 of the Paris reference does not include a top surface as set forth in claim 1. For at least this reason, Applicants submit that the Paris reference does not anticipate amended claim 1.

Furthermore, even assuming that the bottom cabinet includes a top surface (which it does not), such a top surface would not come into contact with the base (4) of the top cabinet. As best seen in FIGS. 2 and 3 of the Paris reference, the base (4) of the top cabinet would be spaced apart from a top surface of the bottom cabinet. In the Paris reference, the sidewall (5) of the top cabinet extends downwardly from base (30) and supports the weight of the top cabinet on the ledge (3) (FIG. 1) formed in the bottom cabinet. As set forth above with respect to the Schenker reference, it appears that the configuration in the Paris reference results in a less stable stacking of the second cabinet on top of the first cabinet compared to the configuration in amended claim 1. In the arrangement set forth in amended claim 1, the base of the top cabinet is in contact with the top surface of the bottom cabinet to more evenly distribute the weight of the top cabinet across the top wall of the bottom cabinet thereby providing a more stable arrangement. The sidewalls in the configuration in amended claim 1 are not used for supporting the weight of the

top cabinet, but instead allows the top cabinet to be securely positioned on top of the bottom cabinet.

For at least the reasons set forth above, Applicants submit that the Paris reference does not teach or suggest all of the limitations included in amended claim 1. It is therefore requested that the rejection of claim 1 be withdrawn. As claims 2-5 and 10 depend either directly or indirectly from claim 1, these claims are not taught or suggested by the Paris reference for at least the same reasons that were set forth above with respect to claim 1. It is requested that the rejection of claims 2-5 and 10 be withdrawn.

Dependent claim 10 includes an additional limitation that is not disclosed in the Paris reference. Claim 10 has been amended to state that at least a portion of the interior casing is formed of a non-flammable thermal insulating material.

Applicants submit that the Paris reference does not include an interior casing that is formed of a non-flammable thermal insulating material. For this additional reason, Applicants request that the rejection of claim 10 be withdrawn.

Claim 9 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Schenker reference in view of U.S. Patent No. 4,976,753 to Huang ("the Huang reference").

Claim 9 depends indirectly from claim 1 and therefore includes all of the limitations included in claim 1. As stated above with respect to amended claim 1, the Schenker reference does not teach or suggest a multi-drawer file cabinet comprising a first cabinet including a top surface, and a second cabinet including a base and a sidewall that extends downwardly from a lower surface of the base,

wherein the base of the second cabinet is in contact with the top surface of the first cabinet. The Huang reference also fails to teach or suggest the limitation that is lacking in the Schenker reference. Thus, for at least the reason that was set forth above with respect to claim 1, Applicants submit that the proposed combination of the Schenker reference and the Huang reference fails to teach or suggest all of the limitations included in claim 9. It is requested that the rejection of claim 9 be withdrawn.

Claims 12 and 13 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Paris reference in view of U.S. Patent No. 5,681,102 to Forsgren ("the Forsgren reference").

Claims 12 and 13 depend indirectly from claim 1 and therefore include all of the limitations included in claim 1. As stated above with respect to amended claim 1, the Paris reference does not teach or suggest a multi-drawer file cabinet comprising a first cabinet including a top surface, and a second cabinet including a base and a sidewall that extends downwardly from a lower surface of the base, wherein the base of the second cabinet is in contact with the top surface of the first cabinet. The Forsgren reference also fails to teach or suggest the limitation that is lacking in the Paris reference. Thus, for at least the reason that was set forth above with respect to claim 1, Applicants submit that the proposed combination of the Paris reference and the Forsgren reference fails to teach or suggest all of the limitations included in claims 12 and 13. It is requested that the rejection of claims 12 and 13 be withdrawn.

Claims 12-14 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Paris reference in view of U.S. Patent No. 1,318,919 to Probst ("the Probst reference").

Claims 12-14 depend indirectly from claim 1 and therefore include all of the limitations included in claim 1. As stated above with respect to amended claim 1, the Paris reference does not teach or suggest a multi-drawer file cabinet comprising a first cabinet including a top surface, and a second cabinet including a base and a sidewall that extends downwardly from a lower surface of the base, wherein the base of the second cabinet is in contact with the top surface of the first cabinet. The Probst reference also fails to teach or suggest the limitation that is lacking in the Paris reference. Thus, for at least the reason that was set forth above with respect to claim 1, Applicants submit that the proposed combination of the Paris reference and the Probst reference fails to teach or suggest all of the limitations included in claims 12-14. It is requested that the rejection of claims 12-14 be withdrawn.

Claim 15 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Paris reference in view of Forsgren, and in further view of U.S. Patent No. 6,416,145 to Singh ("the Singh reference").

Claim 15 depends indirectly from claim 1 and therefore includes all of the limitations included in claim 1. As stated above with respect to amended claim 1, the Paris reference does not teach or suggest a multi-drawer file cabinet comprising a first cabinet including a top surface, and a second cabinet including a base and a sidewall that extends downwardly from a lower surface of the base, wherein the base of the second cabinet is in contact with the top surface of the first cabinet. The

Forsgren reference and the Singh reference also fail to teach or suggest the limitation that is lacking in the Paris reference. Thus, for at least the reason that was set forth above with respect to claim 1, Applicants submit that the proposed combination of the Paris reference, the Forsgren reference, and the Singh reference fails to teach or suggest all of the limitations included in claim 15. It is requested that the rejection of claim 15 be withdrawn.

Claims 18-21 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Schenker reference in view of U.S. Patent No. 1,352,002 to Jones ("the Jones reference").

Claims 18-21 depend indirectly from claim 1 and therefore include all of the limitations included in claim 1. As stated above with respect to amended claim 1, the Schenker reference does not teach or suggest a multi-drawer file cabinet comprising a first cabinet including a top surface, and a second cabinet including a base and a sidewall that extends downwardly from a lower surface of the base, wherein the base of the second cabinet is in contact with the top surface of the first cabinet. The Jones reference also fails to teach or suggest the limitation that is lacking in the Schenker reference. Thus, for at least the reason that was set forth above with respect to claim 1, Applicants submit that the proposed combination of the Schenker reference and the Jones reference fails to teach or suggest all of the limitations included in claims 18-21. It is requested that the rejection of claims 18-21 be withdrawn.

Claims 16 and 17 have been objected to as being dependent upon a rejected base claim, and may be allowable if rewritten in independent form including all of the

limitations of the base claim and any intervening claims. Claim 16 has been rewritten in independent form to include the limitations from original claims 1, 5, 12 and 15. Therefore, it is requested that the objection to claims 16 and 17 be withdrawn.

New claim 32 depends from claim 1 and states that the sidewall does not contact the top surface of the first cabinet. *See Specification, FIG. 1.*

New claim 33 depends from claim 20 and states that the attaching leg and the locking leg are generally parallel with one another, and each of the attaching leg and the locking leg are positioned at an angle relative to the flat portion. *See id. at ¶ [0066]; FIGS. 21-22.*

New claim 34 depends from claim 21 and states that the recess formed in the interior casing is configured to receive the locking leg when the flat portion of the cam is in contact with the ledge. *See id. at ¶ [0071]; FIG. 24.*

Conclusion

In light of the foregoing, Applicants submit that claims 1-21 and 32-34 are in condition for allowance and such allowance is respectfully requested. Should the Examiner feel that any unresolved issues remain in this case, the undersigned may be contacted at the telephone number listed below to arrange for an issue resolving conference.

The Commissioner is hereby authorized to charge the \$490.00 fee for the two-month extension of time, and any other fee that may have been overlooked, to

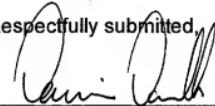
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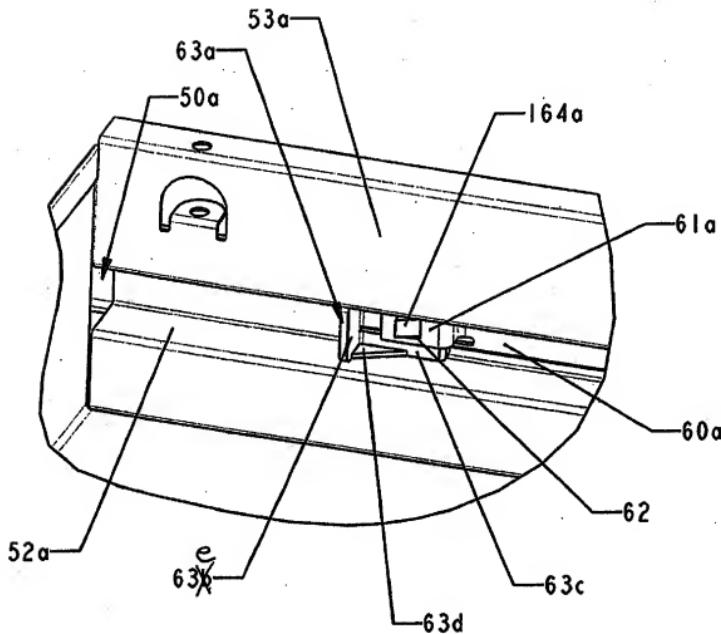


FIG. 13